

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0671

HOUSE ENGROSSED NO. **HB1200** - 2/10/00

Introduced by: Representatives Michels, Brown (Richard), Davis, Haley, Hennies, Koetzle, Lockner, Lucas, and Peterson and Senators Albers, Brosz, Brown (Arnold), and Symens

1 FOR AN ACT ENTITLED, An Act to require criminal background checks of school employees
2 and to prohibit employment of certain persons in schools.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Each person hired by a school district shall submit to a criminal background investigation,
7 by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau
8 of Investigation. The school district shall submit completed fingerprint cards to the Division of
9 Criminal Investigation before the prospective new employee enters into service. If no
10 disqualifying record is identified at the state level, the fingerprints shall be forwarded by the
11 Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal
12 history record check. Any person whose employment is subject to the requirements of this
13 section may enter into service on a temporary basis pending receipt of results of the criminal
14 background investigation. The employing school district may, without liability, withdraw its offer
15 of employment or terminate the temporary employment without notice if the report reveals a
16 disqualifying record. Any person whose employment is subject to the requirements of this section

1 shall pay any fees charged for the criminal record check. However, the school board or
2 governing body may reimburse the person for the fees.

3 Section 2. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 No person may be employed by a school district, either directly or by contract, if the person
6 has been convicted of a crime involving moral turpitude as defined in subdivision 22-1-2(25),
7 including traffic in narcotics; a crime of violence as defined in subdivision 22-1-2(9); or a sex
8 offense as defined in § 22-22-30.

9 Section 3. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any person employed by a South Dakota school district on the effective date of this Act who
12 remains continuously employed by a South Dakota school district for consecutive school years
13 is not required to submit to a criminal background check as provided in section 1 of this Act.

14 Section 4. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 If a school board or governing body of any accredited school dismisses an employee or an
17 employee resigns as a result of a criminal conviction, the superintendent or chief administrator
18 shall, within ten days of the date the employment is severed, report the circumstances and the
19 name of the employee to the Department of Education and Cultural Affairs. Any superintendent
20 or chief administrator who fails to report under this section is subject to sanctions found in § 13-
21 8-48.

22 Section 5. For purposes of this Act, the term, conviction, means a plea or verdict of guilty
23 or a conviction following a plea of nolo contendere in this state or any other state. A duly certified
24 copy of the court record is proof of the conviction and sentence.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 141

3 1/20/00 Referred to Education. H.J. 161

4 2/3/00 Scheduled for Committee hearing on this date.

5 2/3/00 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 382

6 2/7/00 House of Representatives Deferred to another day. H.J. 468

7 2/9/00 Motion to Amend, Passed. H.J. 537

8 2/9/00 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 3. H.J. 538